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on the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Thirteenth periodic reports of States parties due in 1994

Addendum

VENEZUELA*

[18 August 1995]

A. Policy adopted to eliminate racial discrimination

1. We repeat in this report that racial discrimination, as defined in article 1 of the International Convention on the Elimination of All Forms of Racial Discrimination, has not existed in Venezuela for more than a century. As was pointed out in the eighth report submitted to the Committee, article 61 of the Venezuelan Constitution formulates this principle of equality in the following terms:

"Discrimination based on race, sex, creed or social status shall not be permitted.

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* The tenth to thirteenth periodic reports inclusive, due on 5 January 1988, 1990, 1992 and 1994 respectively, are combined in this document. For the eighth and ninth periodic reports of Venezuela and the summary records of the meetings at which the Committee considered the reports, see documents CERD/C/118/Add.24 (CERD/C/SR.738-740) and CERD/C/149/Add.18 (CERD/C/SR.834-835).

The information submitted by Venezuela in conformity with the consolidated guidelines on the initial part of reports by States parties appears in core document HRI/CORE/1/Add.3.

Identity documents shall contain no indication of any kind respecting filiation. No official form of address shall be used other than 'citizen' (ciudadano) and 'you' (usted), except in diplomatic formulas.

Titles of nobility or hereditary distinctions shall not be recognized."

2. It should be noted that this provision against discrimination simply affirms in unequivocal terms one of the Venezuelan people's most outstanding achievements. Furthermore, the fact that the principle of equality is established in the Constitution means that it cannot be derogated from or disregarded in a law or any act of public authorities. It is thus impossible to report on measures adopted in domestic legislation to eliminate racial discrimination.

B. Internal legal validity of the Convention

3. The internal implementation of the Convention also stems from the Constitution, article 128 of which prescribes:

"International treaties or conventions concluded by the National Executive must be approved by a special law in order to be valid, unless they concern the execution or completion of pre-existing obligations of the Republic, the application of principles expressly recognized by it, the execution of ordinary laws in international relations, or the exercise of powers which the law expressly bestows on the National Executive.

However, the Delegated Committee of Congress may authorize the provisional execution of international treaties or conventions when urgency so requires, and these are to be submitted for the subsequent approval or disapproval of Congress.

In all cases the National Executive shall report to the Congress, at its next sessions, all international juridical agreements entered into, with precise information concerning their nature and contents, whether subject to its approval or not."

4. In other words, treaties may be incorporated into the Venezuelan legal order by a special law, as is the case with the International Convention on the Elimination of All Forms of Racial Discrimination, or by an administrative act, for example, a decree issued by the President of the Republic or a ministerial decision. The special law incorporating the Convention into Venezuelan law was published in the Gaceta Oficial (GO) No. 28,395, dated 3 August 1987.

C. Information relating to General Guideline IV adopted by the Committee on 16 August 1973

5. With regard to General Guideline IV adopted by the Committee on 16 August 1973, inviting States parties to give information on the demographic composition of the population, we are obliged to state that in

view of the fact, to which attention has been drawn on many occasions, that Venezuela does not deal specifically in its legal order with "racial discrimination" as defined in article 1 of the Convention, it is impossible to comply with the request for information on the demographic composition of the population. For instance, under the 1944 Statistics and National Censuses Act and its regulations, the information required in the population censuses conducted in Venezuela does not include the racial origins of persons living in the country, since, as already stated, there has been no racial discrimination for over a century.

D. Information in relation to articles 2 to 7

6. If one analyses the text of the Convention, it becomes clear that the preambular part and articles, especially article 1, paragraph 1 and articles 2, 5, 6 and 7, were intended to ensure that States parties to the Convention develop a policy for the elimination of racial discrimination in all its forms. To that end a commitment is entered into concerning the establishment of an entire legal structure for the prohibition and the elimination of racial discrimination in the reporting State, in compliance with article 9 of the Convention.

7. Because of this situation it has become necessary to stress the fact that when the Venezuelan State ratified the Convention, it did so out of solidarity and in order to reaffirm Venezuela's legal position of hostility to racial discrimination. That position can be traced back to the initial emergence of Venezuelan nationality during the last century. Because of this historical situation, we have repeatedly affirmed in various international forums Venezuela's rejection of practices of racial discrimination. From the very beginning Venezuela has been a country open to all and is the product of the intermingling of races. Our history as a nation began by a protracted war for freedom from Spanish colonization in which the ultimately victorious side was made up of all segments of the nascent republic, without any distinction as to colour. Thirty years later there was the civil war, which was known as the Federal War, but which in the final analysis was a genuine social revolution which finally consolidated the phenomenon of the equality of the Venezuelan peoples.

8. This long tradition of equality and tolerance in Venezuela is based on a well-established legal structure. Article 61 of the Constitution, quoted in paragraph 1, is relevant here.

9. In the context of the Convention, Venezuela must be regarded as a State whose Constitution expressly condemned racial discrimination long before this international instrument came into force. Thus any law or act of the public authorities which seeks to infringe that constitutional precept is null and void.

10. Our legal order only contains special measures taken for the purpose of securing adequate advancement for certain groups of persons in need of

protection in order to ensure them the equal exercise of human rights and fundamental freedoms, as set forth in article 1, paragraph 4 of the Convention. This criterion is established in article 77 of the Constitution:

> "The State shall strive to improve the living conditions of the rural population. The law shall establish the special regime required for the protection of the indigenous communities and their incorporation into the life of the nation."

11. To that end, and in discharge of this constitutional mandate, many laws, decrees and resolutions have been adopted with a view to promoting and protecting the rights of the rural population; they guarantee distribution of land in line with the needs of that population, promote agricultural activity by the provision of credit at low rates of interest, and, finally, establish a legal structure of a nature to promote and benefit this sector of the population.

Article 2

12. Article 77 of the 1961 Constitution provides that "the law shall establish the special regime required for the protection of the indigenous communities and their incorporation into the life of the nation". For the achievement of these objectives of protection and incorporation, the Constitution makes provision for the establishment of a special regime.

13. A draft basic law concerning indigenous communities, peoples and cultures, designed to strengthen the rights of indigenous groups, is at present under discussion.

14. The Constitution certainly lays down provisions applicable to "everyone" for to every "citizen" - i.e., to individuals rather than groups (including indigenous groups); it also, equally certainly, recognizes the diversity and differences between individuals and groups through the provisions relating to certain rights and freedoms. The legal provisions relating to indigenous peoples are at present contained in a dispersed fashion in a number of legal instruments; all of them, in the same spirit as the Constitution, are designed for the protection and integration of the indigenous peoples. In this context the right of Indians to their specific characteristics and cultural identity is affirmed under the constitutional provisions relating to freedom of religion and conscience. Article 65 of the Constitution states: "Everyone has the right to profess his religious faith and to practise his religion privately or publicly provided that it is not contrary to public order or to good customs". It is thus established that Indians have the right to profess their own religion free from any coercion or pressure to convert to a different one.

15. Article 194 of the Basic Act concerning Narcotic and Psychotropic Substances states that: "Small indigenous groups, clearly defined by the competent authorities, which have by tradition consumed yopo during magical religious ceremonies are exempted from the scope of this law."

16. The regime for the Federal territories is laid down in the Basic Act concerning Federal Territories (GO No. 3404, dated 18 June 1984), currently in

force. As in the earlier Act of 14 September 1948 (now repealed), the only provisions relating to Indians are contained in article 15, paragraphs 4 to 11, which relate to their protection, the promotion of their culture and the implementation of the Labour Law and its accompanying regulations. Historically, Federal territories have been established in sparsely populated regions or regions inhabited by indigenous populations; they are under the direct authority of the National Executive.

17. The regulations concerning persons serving prison sentences contain special provisions governing the treatment of Indians held in penitentiary establishments. These provisions are applicable to all persons covered by the definition in article 4. The text provides for special treatment for Indians: part of the common dormitory is set aside for Indians with good records (art. 66); places where Indians can work together must be set aside in workshops (art. 67); their visiting hours are different from those of other prisoners (art. 68); and other forms of protection are provided for. However, the Act concerning the penitentiary system, which is applicable to all persons serving confirmed sentences, and its accompanying regulations make no provision for special treatment for Indians.

18. Decree No. 252 (GO No. 23594, dated 5 August 1951) places responsibility for decisions concerning the granting of permits to persons or entities planning expeditions to indigenous regions with the Ministry of Justice. The primary purpose of that decree was to prevent the entry of large numbers of foreign missionaries, and also to prevent adventurers of all kinds from exploiting the indigenous population. However, it is the State Governor and officials of other ministries (such as the Ministry for the Environment) who authorize entry.

19. Article 6 of the Constitution states that the official language of Venezuela is Spanish. However, indigenous peoples are covered by Decree No. 238 (GO No. 31825, dated 20 September 1979), which provides for the gradual introduction of bilingual education in schools for indigenous populations.

20. Finally, we wish to draw attention particularly to the 1915 Missions Act, under which the State assigns the "reduction and civilization of indigenous peoples" to the Roman Catholic missions. The Government of Venezuela concludes agreements on missions under the terms of that Act.

21. There are other legislative instruments, concerned with protection of the environment and coordinated development, which contain provisions relating to indigenous populations. One example is the Act approving the Treaty on Amazonian cooperation (GO No. 31993, dated 28 May 1980) signed by the countries with territory in the Amazon basin (Venezuela, Bolivia, Brazil, Colombia, Ecuador, Guyana, Suriname and Peru). Under that treaty "the contracting parties agree to engage in joint efforts and actions to promote the harmonious development of their respective Amazon territories in such a way as to ensure that these efforts lead to equitable and mutually beneficial results as well as the protection of the environment and the conservation and rational use of natural resources", and the creation of biosphere zones in the Amazonas territory and in Delta Amacuro State.

22. The Agrarian Reform Act also refers to indigenous communities, particularly in article 162, section 3 of which refers to the restitution of lands, in respect of which an obligation is established to "promote the restitution of land, forests and water resources for the benefit of indigenous communities and extended families ..." and section 4, which relates to the cadastral survey. The same obligation is contained in the regulations pertaining to the same Act (GO No. 1089, dated 2 March 1987); article 21, which deals with the regularization of land holding, states that "in national agrarian plans preference shall be given to applications from small rural producers, indigenous peoples ...".

23. The committee of both Houses of the legislature which is at present studying amendments to the Constitution has proposed a reformulation of article 77, replacing its second paragraph by a text setting forth the right of preservation of indigenous culture within a State which, although one and indivisible, should recognize the presence within its frontiers of those communities with their traditions, religions and languages.

24. Finally, the information concerning the policies of the Venezuelan State towards indigenous populations contained in the eighth report submitted to the Committee is repeated.

Article 3

25. With regard to the undertaking by Venezuela to condemn racial segregation, we can draw attention to the provisions of article 61 of the Constitution and of the International Convention on the Elimination of All Forms of Racial Discrimination. Our country rejected the system of apartheid and became a party to the International Convention on the Suppression and Punishment of the Crime of Apartheid, both of which were speedily approved.

26. As regards respect for human rights, Venezuela has become a party to several international instruments in the human rights field, such as the Universal Declaration of Human Rights, the American Declaration of the Rights and Duties of Man, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the International Covenant on Civil and Political Rights and the American Convention on Human Rights.

27. The international position of Venezuela as described is in line with the provisions of its internal legal order. In addition, Venezuela has supported in various international forums all resolutions, decisions and measures directed towards the elimination of apartheid. It also supported the agreements relating to the programme of action against apartheid and implemented unreservedly the resolutions, decisions and measures prescribed by the Security Council and other United Nations organs to combat racial discrimination.

28. Venezuela supported all the activities organized by the Special Committee against Apartheid and participated in international conferences and seminars seeking to combat racial discrimination.

29. Venezuela has now established diplomatic, consular, economic and cultural relations with South Africa as a result of political developments in that country and the election of Mr. Nelson Mandela as its president.

Article 4

30. In implementation of this article and by constitutional mandate, in addition to the fact that the International Convention on the Elimination of All Forms of Racial Discrimination has been incorporated into the internal legal order, propaganda disseminating ideas based on the race of a group of persons, and organizations holding such ideas, are forbidden.

31. Venezuelan law does not define as an offence the dissemination of ideas based on racial superiority or hatred, acts of violence or incitement to violence against any race or assistance of any kind to racist activities as offences. However, in compliance with the Convention, the Executive is taking steps to have the issue examined in the context of a new penal code which is at present under consideration in the legislature.

Article 5

32. The information on this article contained in the eighth and ninth reports submitted by Venezuela is repeated.

33. No case of invocation of the International Convention on the Elimination of All Forms of Racial Discrimination has occurred in Venezuela. However, other international conventions, such as those drawn up within the International Labour Organization, have been invoked.

Article 6

34. The information contained in the eighth report submitted by Venezuela to this Committee is repeated.

Article 7

35. The information contained in the eighth report submitted by Venezuela to this Committee is repeated.

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